

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

07-CV-480

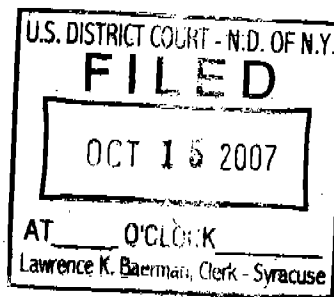
NATHAN BROWN,

PLAINTIFF

V

DALE ARTUS, et al

DEFENDANTS



NOTICE OF MOTION TO  
COMPEL DISCOVERY  
RULES 34(b) AND 37(c)  
FED. R. CIV. P.

PLEASE TAKE NOTICE, THAT UPON THE ANNEXED MOTION FOR AN ORDER COMPELLING DEFENDANTS TO ANSWER INTERROGATORIES REQUESTED ON AUGUST 6, 2007 AND AUGUST 24, 2007. AND UPON ALL OTHER PROCEEDINGS HAD HEREIN, PLAINTIFF BROWN WILL MOVE THIS COURT, HON. DAVID E. PEEBLES, U. S. MAGISTRATE JUDGE, UNITED STATES DISTRICT COURT, 100 SOUTH CLINTON STREET, SYRACUSE NEW YORK 13261 AT 10:30 AM. AT A DATE AND TIME TO BE SET BY THE COURT, FOR AN ORDER COMPELLING ANSWERS TO INTERROGATORIES.

*Nathan Brown*

NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. BOX 2001  
DANNEMORA, N.Y. 12929

DATED: OCTOBER 12, 2007

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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07-CV-480

NATHAN BROWN,

PLAINTIFF

V

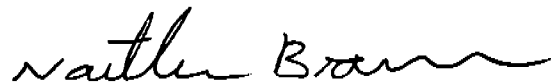
DALE ARTUS, et al

DEFENDANTS

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MOTION TO COMPEL  
DISCOVERY

THE PLAINTIFF HEREBY MOVES PURSUANT TO RULE 34 (b) AND 37 (a) FEDERAL RULES OF CIVIL PROCEDURE, FOR AN ORDER COMPELLING DEFENDANTS TO ANSWER INTERROGATORIES DATED AUGUST 6, 2007 AND AUGUST 24, 2007.



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NATHAN BROWN

90A3219

CLINTON PRISON

P.O. BOX 2001

DANNEMORA, N.Y. 12929

DATED: OCTOBER 12, 2007

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

07-CV-0480

NATHAN BROWN

PLAINTIFF

V

DALE ARTUS, et al

DEFENDANTS

AFFIRMATION IN SUPPORT OF  
MOTION TO COMPEL

NATHAN BROWN, BEING DULY SWORN, DEPOSES AND SAYS:

- (1) I AM THE PLAINTIFF IN THIS LAWSUIT. I MAKE THIS AFFIRMATION IN SUPPORT OF MY MOTION TO COMPEL DISCOVERY.
  - (2) ON AUGUST 6, TH 2007 AND AUGUST 24, 2007. I SERVED BY REGULAR MAIL, REQUESTS FOR INTERROGATORIES ON CHRISTINA L. ROBERTS-RYBA, ASSISTANT ATTORNEY GENERAL, THAT ARE APPENDED TO THE MOTION AS EXHIBITS A AND B.
  - (3) ON SEPTEMBER 24, 2007 I WROTE A LETTER TO CHRISTINA L. ROBERTS-RYBA REQUESTING THAT ANSWERS TO INTERROGATORIES BE FORWARDED TO ME. THAT LETTER IS APPENDED TO THE MOTION AS EXHIBIT - C.
- WHEREFORE, MR. BROWN REQUESTS THAT THIS COURT GRANT THE MOTION IN ALL RESPECTS.

Nathan Brown

NATHAN BROWN  
90A3219

CLINTON PRISON  
P.O. BOX 2001  
DANNEMORA, N.Y. 12929

DATED: OCTOBER 12, 2007

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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07-cv-0480

NATHAN BROWN

PLAINTIFF

V.

DALE ARTUS, et al

DEFENDANTS

---

BRIEF IN SUPPORT OF  
MOTION TO COMPEL  
DISCOVERY

STATEMENT OF THE CASE

THIS IS A CIVIL RIGHTS LAWSUIT BY NATHAN BROWN, A PRISONER AT CLINTON PRISON, SEEKING DAMAGES BASED ON DEPRIVATION OF FIRST AND EIGHTH AMENDMENT VIOLATIONS OF THE UNITED STATES CONSTITUTION.

STATEMENT OF FACTS

ON AUGUST 6, 2007 AND AUGUST 24, 2007 I SERVED INTERROGATORIES UPON CHRISTINA L. ROBERTS-RYBA, ASSISTANT ATTORNEY GENERAL. DEFENDANTS HAVE WAIVED ANY OBJECTIONS BY FAILING TO ANSWER, AFTER THIRTY (30) DAYS OF SERVICE.

ARGUMENT

DEFENDANTS HAVEN'T RESPONDED TO DISCOVERY REQUESTS AFTER THIRTY (30) DAYS AND THEREFORE HAVE WAIVED ANY OBJECTIONS. BECAUSE DEFENDANTS ARTUS AND MINOGUE REFUSES TO ANSWER INTERROGATORIES MR. BROWN IS ENTITLED TO AN ORDER COMPELLING ARTUS AND MINOGUE TO ANSWER INTERROGATORIES.

IN GENERAL, INTERROGATORIES ARE AUTHORIZED PURSUANT TO FED. R. CIV. P. 33. THIS AUTHORIZATION STATES IN PERTINENT PART THAT "WITHOUT LEAVE OF THE COURT OR WRITTEN STIPULATION, ANY PARTY MAY SERVE UPON ANY OTHER PARTY WRITTEN INTERROGATORIES, NOT EXCEEDING 25 IN NUMBER, INCLUDING ALL DISCRETE SUBPARTS, TO BE ANSWERED BY THE PARTY SERVED." FED. R. CIV. P. 33(C) AVAILABILITY.

FOR THE REASONS STATED ABOVE, MR. BROWN RESPECTFULLY REQUESTS THAT THE COURT OVERRULE THE DEFENDANTS OBJECTIONS AND DIRECT DEFENDANTS TO ANSWER INTERROGATORIES.

RESPECTFULLY YOURS,

Nathan Brown

NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. BOX 2001  
DANNEMORA, NEW YORK 12929

DATED: OCTOBER 12, 2007

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

07-CV-0480

NATHAN BRALOW

PLAINTIFF

- AGAINST -

PLAINTIFF'S REQUEST FOR

INTERROGATORIES UPON

R. J. MINOGUE

FIRST

SET

DALL HAYES et al

DEFENDANTS

PLEASE TAKE NOTICE THAT PURSUANT TO RULES 33 AND 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE, PLAINTIFF HEREBY REQUEST THAT DEFENDANT R. J. MINOGUE ANSWER THE FOLLOWING INTERROGATORIES WITHIN THIRTY (30) DAYS AFTER SERVICE OF THIS REQUEST:

- (1) STATE YOUR FULL NAME, SOCIAL SECURITY NUMBER AND PRESENT ADDRESS.
- (2) STATE YOUR OCCUPATION OR THE NATURE OF YOUR EMPLOYMENT, DETAIL:
  - A. THE NAME OF YOUR EMPLOYER AND ADDRESS OF EMPLOYER;
  - B. THE NATURE OF YOUR WORK AND DUTIES.
- (3) STATE WHETHER IN THE PAST SEVERAL YEARS YOU HAVE EVER BEEN A DEFENDANT IN ANY SUIT WHICH CHARGED YOU "INDIVIDUALLY" OR IN YOUR "OFFICIAL" CAPACITY AS A CORRECTIONS CAPTAIN WITH ABUSE OF AUTHORITY.
- (4) IF THE ANSWER TO INTERROGATORIES #3 IS IN THE AFFIRMATIVE, STATE EACH SUIT:
  - A. THE NAME AND ADDRESS OF EACH PLAINTIFF;
  - B. THE NAME AND ADDRESS OF EACH DEFENDANT.

- C. THE NATURE OF THE CAUSE OF ACTION;
- D. THE DATE ON WHICH THE SUIT WAS INSTITUTED;
- E. THE COURT IN WHICH THE SUIT WAS INSTITUTED;
- F. THE VENUE OF EACH SUIT;
- G. THE RESULT FOR EACH SUIT WHICH WAS CONCLUDED BY JUDGMENT OR SETTLEMENT.

(5) HAS ANY STATE OR FEDERAL COURT EVER ISSUED ANY DECREE ENJOINING YOU FROM ENGAGING IN ANY CONDUCT WHATSOEVER.

- (6) IF THE ANSWER TO INTERROGATORIES #5 IS IN THE AFFIRMATIVE, STATE:
- A. THE DESIGNATION, VENUE, AND JUDGE OF THE COURT THAT ISSUED EACH DECREE;
  - B. THE DATE THAT EACH SUCH DECREE WAS ISSUED;
  - C. THE NATURE OF ANY CONDUCT IN WHICH YOU WERE OR ARE ENJOINED FROM ENGAGING.

(7) WERE ANY INTERNAL ADMINISTRATIVE PROCEDURES DESIGNATED TO PREVENT AND CORRECT INSTANCES OF ABUSE OF AUTHORITY BY BOARD AND STAFF PRIOR TO MARCH 31, 2007?

- (8) IF THE ANSWER TO INTERROGATORIES #7 IS IN THE AFFIRMATIVE, STATE:
- A. THE NATURE OF SUCH PROCEDURES AND;
  - B. THE PERSON OR PERSONS RESPONSIBLE FOR IMPLEMENTING SUCH PROCEDURES.

(9) IF THE ANSWER TO INTERROGATORIES #8 IS IN THE AFFIRMATIVE, STATE WHETHER YOU HAVE EVER BEEN SUBJECT TO SUCH INTERNAL ADMINISTRATIVE PROCEDURES.

- (10) IF THE ANSWER TO INTERROGATORIES #9 IS IN THE AFFIRMATIVE, STATE WHETHER THE SUBSTANCE OF ANY CHARGES MADE AGAINST YOU INVOLVED
- A. ABUSE OF AUTHORITY;
  - B. THE NAME AND ADDRESS OF EACH PERSON WHOM MADE SUCH CHARGES;
  - C. THE DATE AND OUTCOME OF EACH SUCH PROCEDURE INCLUDING THE DATE AND NATURE OF SUBSEQUENT DISCIPLINARY ACTION AGAINST YOU, IF ANY WAS TAKEN;
  - AND
  - D. THE NAME AND ADDRESS OF THE PERSON OR PERSONS RESPONSIBLE FOR ADMINISTERING ANY SUCH DISCIPLINARY ACTION.
- (11) STATE WHETHER AS A RESULT OF THE INCIDENT OF MARCH 26, 2007 DESCRIBED IN PLAINTIFF BROWN'S CIVIL RIGHTS COMPLAINT YOU WERE SUBJECT TO SUCH INTERNAL ADMINISTRATIVE PROCEDURES.
- (12) IF THE ANSWER TO INTERROGATORIES #11 IS IN THE AFFIRMATIVE, LIST:
- A. THE SUBSTANCE OF THE CHARGES MADE AGAINST YOU IN SUCH PROCEDURES;
  - B. THE NAME AND ADDRESS OF SUCH PERSONS WHO PROFFERED SUCH CHARGE
  - AND
  - C. THE DATE AND OUTCOME OF SUCH PROCEDURES, INCLUDING THE DATE AND NATURE OF SUBSEQUENT DISCIPLINARY ACTION AGAINST YOU, IF ANY WAS TAKEN.
- (13) GIVE THE NAMES OF ALL PERSONS KNOWN TO YOUR ATTORNEY OR YOUR AGENTS, WHO HAVE PERSONAL KNOWLEDGE OF THE FACTS OR CIRCUMSTANCES SURROUNDING THE MARCH 26, 2007 INCIDENT ARISED IN PLAINTIFF BROWN'S CIVIL RIGHTS COMPLAINT, AND FURTHER STATE WHETHER SUCH WITNESS HAS GIVEN A SIGNED STATEMENT TO YOU, YOUR ATTORNEY, OR YOUR AGENTS.



- (14) LIST THE NAMES OF ALL PERSONS AND THEIR IDENTITY WHOM YOU INTEND TO CALL AS EXPERT WITNESSES AT TRIAL THE SUBJECT MATTER OF WHICH EACH EXPERT IS EXPECTED TO TESTIFY, A SUMMARY OF THE GROUND FOR EACH OPINION, AND THE IDENTITY OF ALL OTHER EXPERTS CONSULTED OR ENGAGED BY YOU, YOUR ATTORNEY, OR YOUR AGENTS.
- (15) STATE WHETHER YOU HAVE EVER BEEN CONVICTED OF ANY CRIMINAL OFFENSE OR HAVE EVER PLEADED GUILTY OR NOLO CONTENDERE, THE DATE AND PLACE OF SUCH CONVICTION, AND THE DISPOSITION.
- (16) IDENTIFY ALL DOCUMENTS WHICH YOU REVIEWED OR CONSULTED IN PREPARING THESE ANSWERS.
- (17) IDENTIFY ALL PERSONS WITH WHOM YOU CONSULTED IN PREPARING THESE ANSWERS.
- (18) STATE WHETHER YOU BELONG TO ANY RACE HATE GROUP INCLUDING BUT NOT LIMITED TO, THE KU KLUX KLAN.

Nathan Brown

NATHAN BROWN

90A3219

CLINTON PRISON, BOX 2001

DANNEMORA, NEW YORK 12929

DATED: AUGUST 6, 2007

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

NATHAN BROWN

PLAINTIFF

V.

BROWN V. ARTUS, et al

07-cv-0480

PLAINTIFF'S REQUEST FOR

INTERROGATORIES

FIRST SET

UPON DALE ARTUS

DALE ARTUS, et al

DEFENDANTS

PLEASE TAKE NOTICE THAT PURSUANT TO RULE 33 AND 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE, PLAINTIFF HEREBY REQUEST THAT DALE ARTUS ANSWER THE FOLLOWING INTERROGATORIES WITHIN THIRTY (30) DAYS AFTER SERVICE OF THIS REQUEST.

- 1) STATE YOUR FULL NAME, SOCIAL SECURITY NUMBER, AND PRESENT ADDRESS.
- 2) STATE YOUR OCCUPATION OR THE NATURE OF YOUR WORK OR DUTIES. DETAILED:
  - A. THE NAME OF YOUR EMPLOYER AND ADDRESS OF EMPLOYER
  - B. THE NATURE OF YOUR WORK AND DUTIES.
- 3) STATE WHETHER YOU HAVE EVER BEEN A DEFENDANT WITHIN THE PAST SEVERAL YEARS THAT CHARGED YOU WITH INDIVIDUALLY OR IN YOUR OFFICIAL CAPACITY AS A SUPERINTENDENT WITH ABUSE OF AUTHORITY.
- 4) IF THE ANSWER TO INTERROGATORIES #3 IS IN THE AFFIRMATIVE, STATE EACH SUIT:
  - A. THE NAME AND ADDRESS OF EACH PLAINTIFF;

B. THE NAME AND ADDRESS OF EACH DEFENDANT;

C. THE NATURE OF THE CAUSE OF ACTION;

D. THE DATE ON WHICH THE SUIT WAS INSTITUTED;

E. THE COURT IN WHICH THE SUIT WAS INSTITUTED;

F. THE VENUE OF EACH SUIT;

G. THE NAME AND ADDRESS FOR EACH PARTY;

H. THE RESULT OF EACH SUIT WHICH WAS CONCLUDED BY JUDGMENT OR SETTLEMENT.

5) HAS ANY STATE OR FEDERAL COURT EVER ISSUED ANY DECREE ENJOINING YOU FROM ENGAGING IN ANY CONDUCT WHATSOEVER.

6) IF THE ANSWER TO INTERROGATORIES #5 IS IN THE AFFIRMATIVE, PROVIDE:

A. THE DESIGNATION, VENUE, AND JUDGE OF THE COURT THAT ISSUED EACH DECREE;

B. THE DATE THAT EACH SUCH DECREE WAS ISSUED;

C. THE NATURE OF ANY CONDUCT IN WHICH YOU WERE OR ARE INJOINED FROM ENGAGING.

7) WERE ANY INTERNAL ADMINISTRATIVE PROCEDURES INSTITUTED TO PREVENT INSTANCES OF ABUSE OF AUTHORITY PRIOR TO MARCH 26, 2007.

8) IF THE ANSWER TO INTERROGATORIES #7 IS IN THE AFFIRMATIVE, STATE:

A. THE NATURE OF SUCH PROCEDURE AND;

B. THE PERSON OR PERSONS RESPONSIBLE FOR IMPLEMENTING SUCH PROCEDURES.

9) STATE WHETHER YOU RECEIVED A LETTER FROM PLAINTIFF BROWN DATED APRIL 3, 2007 SURROUNDING USE OF FORCE BY STAFF.

- 10) IF THE ANSWER TO INTERROGATORIES #9 IS IN THE AFFIRMATIVE, STATE:
- A. THE SUBSTANCE OF THAT LETTER;
  - B. DESCRIBE WHAT ACTIONS YOU HAD TAKEN IN RESPONSE TO THAT LETTER;
  - C. STATE WHETHER ANY DISCIPLINARY ACTION WAS TAKEN AGAINST GUARDS;
  - D. STATE WHETHER YOU HAD KNOWLEDGE OF THE ATTACK INCIDENT BEFORE ITS OCCURRENCE.
- 11) STATE WHETHER ANY ADMINISTRATIVE PROCEDURES WERE IN EFFECT AT CLINTON PRISON PRISON TO PREVENT INSTANCES OF HOMOSEXUAL ENCROACHMENTS BY GUARDS AND STAFF
- 12) STATE WHETHER YOU'VE HAD ANY KNOWLEDGE OF YOUR GUARDS AND STAFF LOOKING TO ENGAGE IN HOMOSEXUAL ACTS WITH PLAINTIFF BROWN PRIOR TO HIS MARCH 24, 2007 COMPLAINT WRITTEN TO LINDA TURNER, DEPUTY SUPERINTENDENT.
- 13) STATE WHETHER YOU'VE EVER BEEN CONVICTED OF ANY CRIMINAL OFFENSE, OR HAVE EVER PLED GUILTY OR NOLO CONTENDERE.
- 14) STATE WHETHER YOU BELONG TO ANY RACE HATE GROUP INCLUDING BUT NOT LIMITED TO, THE KU KLUX KLAN.

Dated: AUGUST 24, 2007

Nathan Brown  
NATHAN BROWN  
90A3219  
CLINTON PRISON, BOX 2001  
DANNEMORA, N.Y. 12929

CHRISTINA L. ROBERTS - RYBA

EXHIBIT - C

ASSISTANT ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY GENERAL  
THE CAPITAL  
ALBANY, NEW YORK 12224

07-cv-480

RE: BROWN V. ARTUS, et al

SEPTEMBER 24, 2007

DEAR MS. RYBA:

THANK YOU FOR ACKNOWLEDGING RECEIPT OF INTERROGATORIES DATED AUGUST 6TH 2007. ALSO, YOU HAD STATED IN YOUR AUGUST 17, 2007 LETTER THAT YOU HAD THEM [INTERROGATORIES] "SENT TO THE APPROPRIATE DEFENDANTS REQUESTING THAT THEY ANSWER THEM AS SOON AS POSSIBLE." RESPONSES ARE NOW DUE. ADDITIONALLY, MR. BROWN SERVED INTERROGATORIES UPON YOU DATED AUGUST 24TH 2007. AND RESPONSES ARE NOW DUE. MOREOVER, THE COURT'S RECENT ORDER DATED SEPTEMBER 17, 2007 REQUIRES THAT THE PARTIES PROMPTLY ANSWER DISCOVERY REQUESTS SO AS NOT TO DELAY DISCOVERY, CITING LOCAL RULE 7.1C & D. THEREFORE, MR. BROWN REQUESTS THAT YOU FORWARD ANSWERS TO THOSE INTERROGATORIES.

THANK YOU FOR YOUR ATTENTION TO THIS MATTER.

cc/NATHAN BROWN

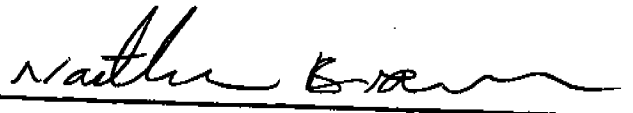
RESPECTFULLY YOURS,

Nathan Brown

NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. BOX 2001  
DANMORA, NEW YORK 12929

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT ON OCTOBER 12, 2007 I CAUSED TO BE SERVED THE FOREGOING PLAINTIFF'S NOTICE OF MOTION TO TO COMPEL, MOTION TO COMPEL AFFIRMATION AND SUPPORT, ALONG WITH A BRIEF IN SUPPORT OF MOTION TO COMPEL DISCOVERY, UPON CHRISTINA L. ROBERTS-RYBA, ASSISTANT ATTORNEY GENERAL, BY CAUSING THE SAME TO BE PLACED IN PROPERLY ADDRESSED, POSTAGE PRE-PAID PACKAGING AND DEPOSITED IN THE UNITED STATES MAIL.



NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. BOX 2001  
DANNEMORA, NEW YORK 12929